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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,424	08/25/2003	John McFarland Harris	CE10278R (78910)	2794

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MOTOROLA, INC.
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EXAMINER

HO, HUY C

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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02/25/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
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Office Action Summary

Application No.

10/647,424

Applicant(s)

HARRIS ET AL.

Examiner

Huy C. Ho

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08/25/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 11/30/2007 with respect to claims 1-9 and 22-25 have been considered but are moot and not persuasive.

The argued features, i.e., a method for regulating a remaining play-out depth of a play-out buffer in a destination mobile unit, the method comprising: receiving at least one communication from a source mobile unit in a play-out buffer, the play-out buffer having an associated play-out depth; playing the communications received at the play-out buffer to a recipient at the destination mobile unit; determining the remaining play-out depth of the play-out buffer in the destination mobile unit; and sending an indication to the source mobile unit when the remaining play-out depth of the play-out buffer in the destination mobile unit reaches a predetermined threshold, read upon Kramer (6658027) in view of Rogers (2001/0055276) as follows.

Kramer is discussing system and method of monitoring a buffer in a communication apparatus 100 in a wireless network of transmitting devices and receiving devices (see figure 1, col 3 lines 30-36), where the method comprises controlling the data frames stored in the buffer based on set criteria and condition of said buffer. The condition includes the high or low threshold levels. Kramer is discussing the buffer manager in the device 100 monitors the depth of the buffer and show indication of the condition of the buffer (see col 5 lines 1-15, col 8 lines 50-67, col 9 lines 60-67, col 10 lines 1-10). Rogers, the inventor of the same assignee Nortell Networks Limited with Kramer, emphasizes the buffer controller indicates that the buffer level has exceeds a threshold, then the solution will be made for controlling the buffer level (see section [47]).

As the result, the argued features are written such that they read upon the cited references.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-4, 6-7 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer et al. (6,658,027) and further in view of Rogers et al. (2001/0055276).

Consider claim 1, (original) Kramer discloses a method for regulating a remaining play-out depth of a play-out buffer in a destination mobile unit (see the abstract, figure 1), the method comprising:

Kramer discloses:

receiving at least one communication from a source mobile unit in a play-out buffer, the play-out buffer having an associated play-out depth (figures 1, 4, col 1 lines 39-45, col 3 lines 53-67, col 5 lines 15-27, col 7 lines 50-67, col 8 lines 1-20);

playing the communications received at the play-out buffer to a recipient at the destination mobile unit (col 1 lines 25-33, col 3 lines 55-67);

determining the remaining play-out depth of the play-out buffer in the destination mobile unit (col 5 lines 1-27, 35-65); and

sending to the source mobile unit when the remaining play-out depth of the play-out buffer in the destination mobile unit reaches a predetermined threshold (col 5 lines 1-27, col 9 lines 60-67, col 10 lines 1-10).

Kramer does not specifically show an indication. In an analogous art, Rogers discloses an indication (see section [47]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Kramer, and having an indication, as taught by Rogers, thus improving wireless communication as discussed by Rogers (see sections [2]-[6], [8]-[9]).

Consider claim 6, (original) Kramer discloses a method of regulating a coding rate of communications transmitted from a source wireless unit to a destination wireless unit (see the abstract, col 4 lines 9-35), the method comprising:

Kramer discloses:

encoding communications in a vocoder at the source mobile unit at a coding rate and transmitting the communications to the destination unit (figure 1, col 3 lines 30-50);

receiving from the destination mobile unit (col 5 lines 1-27, col 9 lines 60-67, col 10 lines 1-10; and

adjusting the coding rate of the vocoder in the source mobile unit to the received from the destination mobile unit (col 6 lines 19-32, col 7 lines 33-67, col 8 lines 1-20).

Kramer does not specifically show an indication. In an analogous art, Rogers discloses an indication (see section [47]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Kramer, and having an indication, as taught by Rogers, thus improving wireless communication as discussed by Rogers (see sections [2]-[6], [8]-[9]).

Consider claim 22, (previously presented) Kramer discloses a device for controlling a rate of incoming communications comprising:

Kramer discloses:

a wireless transceiver having at least one output (figure 2, col 4 lines 54-67, col 5 lines 1-15, 35-67, col 6 lines 1-50);

a play-out buffer having a play-out depth and storing communications received from a source mobile unit (col 1 lines 39-45, col 3 lines 53-67, col 5 lines 15-27, col 7 lines 50-67, col 8 lines 1-20);

a register containing data representing remaining play-out depth of the play-out buffer (col 5 lines 1-27, col 9 lines 60-67, col 10 lines 1-10);

a controller coupled to the play-out buffer and the register, the controller also coupled to the transceiver via a message output, the message output corresponding to contents of the register (figure 2, col 4 lines 54-67, col 5 lines 1-15, 35-67, col 6 lines 1-50);

such that the wireless transceiver will transmit a communication that comprises the message output when the play-out depth reaches a predetermined threshold (col 5 lines 1-27, col 9 lines 60-67, col 10 lines 1-10).

Kramer does not specifically show an indication. In an analogous art, Rogers discloses an indication (see section [47]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Kramer, and having an indication, as taught by Rogers, thus improving wireless communication as discussed by Rogers (see sections [2]-[6], [8]-[9]).

Consider claim 2, (original) The method of claim 1, Kramer, as modified by Rogers, discloses: encoding and transmitting the communications from the source mobile unit to the destination mobile unit at a coding rate (the abstract, sections [2]);

receiving the indication from the destination mobile unit (sections [3], [5], [47]); and

adjusting the coding rate of the communications sent from the source mobile unit to the destination mobile unit as a function, at least in part, of the indication received from the destination mobile unit (sections [8]-[9], [13]-[15]).

Consider claim 3, (original) The method of claim 2 Kramer, as modified by Rogers, discloses wherein adjusting the coding rate of the source mobile unit comprises adjusting the coding rate of a vocoder in the source mobile unit (sections [20], [25], [47]).

Consider claim 4, (original) The method of claim 1 Kramer, as modified by Rogers, further discloses wherein sending an indication comprises sending a real-time transport protocol (RTP) header (see col 10 lines 10-25).

Consider claim 7, (original) The method of claim 6 Kramer, as modified by Rogers, further discloses wherein receiving an indication comprises receiving a real-time transport protocol (RTP) header (see col 10 lines 10-25).

Consider claim 23, (previously presented) The device of claim 22 Kramer, as modified by Rogers, further discloses comprising means for playing the communications received at the play-out buffer to a recipient (col 1 lines 25-33, col 3 lines 55-67);

Consider claim 24, (previously presented) The device of claim 22 Kramer, as modified by Rogers, further discloses comprising means for determining the remaining depth of the play-out buffer (col 5 lines 1-27, 35-65).

Consider claim 25, (previously presented) The device of claim 22 wherein the indication of play-out depth is comprised in an RTP header (see col 10 lines 10-25).

6. Claims 5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer et al. (6,658,027), in view of Rogers et al. (2001/0055276) and further in view of Schuster et al. (6,785,261).

Consider claim 5, (original) The method of claim 2, Kramer, as modified by Rogers, discloses wherein receiving an indication (see section [47]). Kramer, as modified by Rogers, does not specifically show acknowledgment message for a frame. In an analogous art, Schuster discloses acknowledgment message for a frame (see col 5 lines 5-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Kramer, as modified by Rogers, and have acknowledgment message for a frame, as taught by Schuster, thus improving system and method of data transmission between devices as discussed by Schuster (see col 1 lines 9-26, col 2 lines 65-67, col 3 lines 1-30, col 7 lines 9-67).

Consider claims 8, (original) The method of claims 6, Kramer, as modified by Rogers, discloses wherein receiving an indication (see section [47]). Kramer, as modified by Rogers, does not specifically show acknowledgment message. In an analogous art, Schuster discloses acknowledgment message (see col 5 lines 5-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Kramer, as modified by Rogers, and have acknowledgment message, as taught by Schuster, thus improving system and method of data transmission between devices as discussed by Schuster (see col 1 lines 9-26, col 2 lines 65-67, col 3 lines 1-30, col 7 lines 9-67).

Consider claim 9, (original) The method of claim 8 Kramer, as modified by Rogers, further discloses wherein receiving the indication comprises a request for retransmission for a frame that was originally sent more than a threshold number of seconds in the past (see col 11 lines 26-41).

Kramer, as modified by Rogers, does not specifically show NAK message. In an analogous art, Schuster discloses NAK message (see col 5 lines 5-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Kramer, as modified by Rogers, and have NAK message, as taught by Schuster, thus improving system and method of data transmission between devices as discussed by Schuster (see col 1 lines 9-26, col 2 lines 65-67, col 3 lines 1-30, col 7 lines 9-67).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

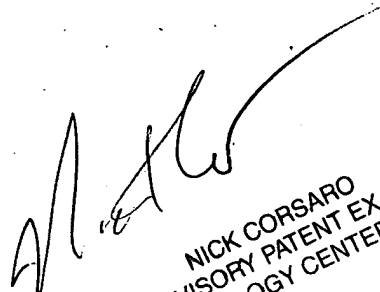
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy C. Ho whose telephone number is (571) 270-1108. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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